

1 **Thomas P. Riley, SBN 194706**
2 **LAW OFFICES OF THOMAS P. RILEY, P.C.**
3 **1114 Fremont Avenue**
4 **South Pasadena, CA 91030**

5 **Tel: 626-799-9797**
6 **Fax: 626-799-9795**
7 **TPRLA@att.net**

8 **Attorneys for Plaintiffs**
9 **Garden City Boxing Club, Inc.**

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 **Garden City Boxing Club, Inc.**

13 **CASE NO. 3:07-cv-05925-MMC**

14 **Plaintiff,**

15 **PLAINTIFF'S EX PARTE**
16 **APPLICATION FOR AN ORDER**
17 **CONTINUING CASE MANAGEMENT**
18 **CONFERENCE; AND ORDER**
19 **(Proposed)**

20 **vs.**

21 **Miguel Juarez Zavala, et al.**

22 **Defendant.**

23 Plaintiff Garden City Boxing Club, Inc., hereby applies *ex parte* for an order continuing the
24 initial Case Management Conference in this action, presently set for Friday, May 23, 2008 at 9:00 a.m.
25 to a new date approximately thirty (30) to forty-five (45) days forward. This request is necessitated by
26 the fact that Plaintiff only recently perfected service of process as to the remaining Defendant named to
27 this action. (Please see Plaintiff's Exhibit 1, attached.)

28 In addition, as of this writing, Plaintiff has yet to receive an answer or any other responsive
29 pleading from the Defendant and the Defendant has not contacted Plaintiff's counsel following service
30 of the suit papers. As a result, Plaintiff's counsel has not conferred with the Defendant concerning the
31 claims, discovery, settlement, ADR or any of the other pertinent issues involving the case itself or the
32 preparation of a Case Management Conference Statement.

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35 **PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER CONTINUING**
36 **CASE MANAGEMENT CONFERENCE; AND ORDER (Proposed)**
37 **CASE NO. 3:07-cv-5925-MMC**

38 **PAGE 1**

Wherefore, Plaintiff respectfully requests that this Honorable Court continue the Case Management Conference presently scheduled for Friday May 23, 2008 to a new date approximately thirty (30) to forty-five (45) days forward in order that responsive pleadings may be filed by the remaining Defendant and Plaintiff's counsel may thereafter confer with the Defendant and/or his counsel and thereafter prepare and file a Joint Case Management Conference Statement for the Court's review.

Respectfully submitted,

Dated: May 13, 2008

/s/ Thomas P. Riley

LAW OFFICES OF THOMAS P. RILEY, P.C.

By: Thomas P. Riley

Attorneys for Plaintiff
Garden City Boxing Club, Inc.

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III. CONCLUSION

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III. INTERVIEW

III. DISCUSSION

III. *Geographical distribution*

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**PLAINTIFF'S EX PARTE
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CASE NO. 3:07-cv-5935-MJ

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THEORY AND PRACTICE

**PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER CONTINUING
CASE MANAGEMENT CONFERENCE; AND ORDER (Proposed)**

CASE NO. 3:07-cv-5925-MMC

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ORDER (Proposed)

It is hereby ordered that the Case Management Conference in civil action number 3:07-cv-5925-MMC styled *Garden City Boxing Club, Inc. v. Miguel Juarez Zavala, et al.*, is hereby continued from 9:00 a.m., Friday, May 23, 2008, to _____.

The Parties shall file a Joint Case Management Statement in advance of the Case Management Conference pursuant to the Local Rules and the Standing Order of this Court.

Plaintiff shall also serve a copy of this Order on the Defendant and thereafter file a Certification of Service of this Order with the Clerk of the Court.

IT IS SO ORDERED:

Dated: 20 January 2009

THE HONORABLE MAXINE M. CHESNEY
United States District Court
Northern District of California

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)

THOMAS P. RILEY, ESQ., Bar No.: 194706
 THOMAS P. RILEY, LAW OFFICES OF
 1114 FREMONT AVENUE
 SOUTH PASADENA, CA 91030

TELEPHONE NO.
(626) 799-9797

tprlaw@att.net

Ref. No. or File No.

TIJUANA MIKES 11/27/04

ATTORNEY FOR (Name)

PLAINTIFF

FOR COURT USE ONLY

Insert name of court, judicial district or branch court, if any

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT
 OAKLAND DIVISION
 1301 CLAY ST., SOUTH TOWER
 OAKLAND, CA 94612-5212

PLAINTIFF/PETITIONER

GARDEN CITY BOXING CLUB, INC.

DEFENDANT/RESPONDENT

ZAVALA

PROOF OF SERVICE	DATE	TIME	DEPT/DIV	CASE NUMBER
				C07-05925 AMMC ADR

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the

SUMMONS IN A CIVIL CASE, COMPLAINT; CERTIFICATION AS TO INTERESTED PARTIES; ORDER
 SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; CASE MANAGEMENT
 CONFERENCE ORDER; STANDING ORDERS FOR CIVIL CASES; CONTENTS OF JOINT CASE
 MANAGEMENT STATEMENT

3. a. Party served:

MIGUEL JUAREZ ZAVALA, INDIVIDUALLY AND D/B/A TIJUANA
 MIKE'S MEXICAN RESTAURANT & TEQUILA BAR

4. Address where the party was served

2316 COOLEY AVENUE
 EAST PALO ALTO, CA 94303-1635

5. I served the party

b. by substituted service. On April 19, 2008 at 09:20 am I left the documents listed in item 2
 with or in the presence of ARMANDO ZAVALA - CO-OCCUPANT(2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of
 abode of the person served. I informed him or her of the general nature of the papers.

(4) A declaration of mailing is attached.

(5) I attach a declaration of diligence stating actions taken first to attempt personal service.
 under the following Code of Civil Procedure section

SERVICE MADE PURSUANT TO FRCP 4(e) (2)

7. Person who served papers

a. J. CERVANTES

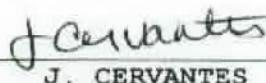
b. ABSOLUTE SERVICE OF LOS ANGELES
 1301 WEST SECOND STREET, SUITE 204
 LOS ANGELES, CA 90026
 c. (213) 481-7334

d. The fee for service was: \$135.00

e. I am: (3) registered California process server
 (i) independent contractor
 (ii) Registration No.: 1006
 (iii) County: SAN FRANCISCO

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 24, 2008


 J. CERVANTES

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) THOMAS P. RILEY, ESQ., Bar No.: 194706 THOMAS P. RILEY, LAW OFFICES OF 1114 FREMONT AVENUE SOUTH PASADENA, CA 91030		TELEPHONE NO. (626) 799-9797	FOR COURT USE ONLY
		tprlaw@att.net Ref. No. or File No. TIJUANA MIKES 11/27/04	
ATTORNEY-ADR (Name) PLAINTIFF			
Insert name of court, judicial district or branch court, if any UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OAKLAND DIVISION 1301 CLAY ST., SOUTH TOWER OAKLAND, CA 94612-5212			
PLAINTIFF GARDEN CITY BOXING CLUB, INC.			
DEFENDANT ZAVALA			
DECLARATION RE: DILIGENCE	DATE	TIME	DEPT/ON:
			CASE NUMBER C07-05925 AMMC ADR

I received the within process on April 9, 2008 and that after due and diligent effort I have been unable to personally serve said party. The following itemization of the dates and times of attempts details the efforts made to effect personal service. Additional costs for diligence are recoverable under CCP §1033.5 (a)(4)(B)

Party Served: **MIGUEL JUAREZ ZAVALA, INDIVIDUALLY AND D/B/A TIJUANA MIKE'S MEXICAN RESTAURANT & TEQUILA BAR**

Residence: **2316 COOLEY AVENUE, EAST PALO ALTO, CA 94303-1635**

Business: **Business address was not known at the time of service.**

As enumerated below:

**April 12, 2008 09:15 am
NO ANSWER (RESIDENCE), NO VEHICLES.**
**April 13, 2008 08:30 pm
NO ANSWER (RESIDENCE), PREMISES DARK.**
**April 14, 2008 07:15 pm
NO ANSWER (RESIDENCE), NO LIGHTS OR ACTIVITY.**
**April 15, 2008 06:45 pm
NO ANSWER (RESIDENCE), NO VEHICLES OR ACTIVITY.**
**April 16, 2008 07:30 pm
NO ANSWER (RESIDENCE).**
**April 17, 2008 07:00 am
NO ANSWER (RESIDENCE).**
**April 17, 2008 06:55 pm
NO ANSWER (RESIDENCE), NO ACTIVITY.**
**April 18, 2008 06:50 am
NO ANSWER (RESIDENCE).**

(CONTINUED ON NEXT PAGE)

Person who served papers

**J. CERVANTES
ABSOLUTE SERVICE OF LOS ANGELES
1301 WEST SECOND STREET, SUITE 204
LOS ANGELES, CA 90026
(213) 481-7334**

**The fee for service was: \$135.00
I am: registered California process server
independent contractor
Registration No.: 1006
County: SAN FRANCISCO**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: **April 24, 2008**

J. Cervantes
J. CERVANTES

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) THOMAS P. RILEY, ESQ., Bar No.: 194706 THOMAS P. RILEY, LAW OFFICES OF 1114 FREMONT AVENUE SOUTH PASADENA, CA 91030		TELEPHONE NO. (626) 799-9797	FOR COURT USE ONLY
ATTORNEY FOR (Name) PLAINTIFF		tprlaw@att.net Ref. No. or File No. TIJUANA MIKES 11/27/04	
Insert name of court, judicial district or branch court, if any UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OAKLAND DIVISION 1301 CLAY ST., SOUTH TOWER OAKLAND, CA 94612-5212			

PLAINTIFF GARDEN CITY BOXING CLUB, INC.			
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DEFENDANT			
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ZAVALA				
DECLARATION RE: DILIGENCE	DATE	TIME	DEPT/DIV.	CASE NUMBER
				C07-05925 AMMC ADR

April 19, 2008 09:19 am
NOT HOME (RESIDENCE) PER ARMANDO ZAVALA, CO-OCCUPANT.

April 19, 2008 09:20 am
SUBSTITUTED SERVICE. RECIPIENT INSTRUCTED TO DELIVER DOCUMENTS TO DEFENDANT
AS NAMED.

Person who served papers

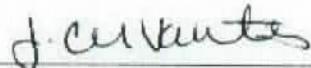
J. CERVANTES
ABSOLUTE SERVICE OF LOS ANGELES
1301 WEST SECOND STREET, SUITE 204
LOS ANGELES, CA 90026
(213) 481-7334

The fee for service was: \$135.00

I am: registered California process server.
Employee or independent contractor
Registration No.: 1006
County: SAN FRANCISCO

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: April 24, 2008


J. CERVANTES

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)		TELEPHONE NO.	FOR COURT USE ONLY
THOMAS P. RILEY, ESQ., Bar No.: 194706 THOMAS P. RILEY, LAW OFFICES OF 1114 FREMONT AVENUE SOUTH PASADENA, CA 91030		(626) 799-9797	
ATTORNEY FOR (Name) PLAINTIFF		tprlaw@att.net	Ref. No. or File No.
		TIJUANA MIKES 11/27/04	
Insert name of court, judicial district or branch court, if any: UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OAKLAND DIVISION 1301 CLAY ST., SOUTH TOWER OAKLAND, CA 94612-5212			
PLAINTIFF/PETITIONER			
GARDEN CITY BOXING CLUB, INC.			
DEFENDANT/RESPONDENT			
ZAVALA			
PROOF OF SERVICE BY MAIL	DATE	TIME	DEPT/DIV. CASE NUMBER
			C07-05925 AMMC ADR

I am a citizen of the United States and employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 1301 West Second Street, Suite 204, Los Angeles, CA 90026.

On **April 21, 2008**, after substituted service under section CCP 415.20(a) or 415.20(b) or FRCIV.P 4(d)(1) was made, I mailed copies of the:

SUMMONS IN A CIVIL CASE, COMPLAINT; CERTIFICATION AS TO INTERESTED PARTIES; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; CASE MANAGEMENT CONFERENCE ORDER; STANDING ORDERS FOR CIVIL CASES; CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

to the defendant in said action by placing a true copy thereof enclosed in a sealed envelope, with First Class postage thereon fully prepaid, in the United States Mail at LOS ANGELES, California, addressed as follows:

MIGUEL JUAREZ ZAVALA, INDIVIDUALLY AND D/B/A TIJUANA MIKE'S MEXICAN RESTAURANT & TEQUILA BAR
2316 COOLEY AVENUE
EAST PALO ALTO, CA 94303-1635

I am readily familiar with the firm's practice for collection and processing of documents for mailing. Under that practice, it would be deposited within the United States Postal Service, on that same day, with postage thereon fully prepaid at LOS ANGELES California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

Person who served papers

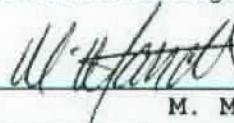
M. MANCHESTER
ABSOLUTE SERVICE OF LOS ANGELES
1301 WEST SECOND STREET, SUITE 204
LOS ANGELES, CA 90026
(213) 481-7334

The fee for service was: \$135.00

I am: registered California process server
employee
Registration No. 5211
County: LOS ANGELES

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date **April 24, 2008**



M. MANCHESTER

1 **PROOF OF SERVICE (SERVICE BY MAIL)**
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I declare that:

I am employed in the County of Los Angeles, California. I am over the age of eighteen years and not a party to the within cause; my business address is 1114 Fremont Avenue, South Pasadena, California 91030. I am readily familiar with this law firm's practice for collection and processing of correspondence/documents for mail in the ordinary course of business.

On, May 13, 2008, I served:

PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER CONTINUING CASE MANAGEMENT CONFERENCE; AND ORDER (Proposed)

On all parties in said cause by enclosing a true copy thereof in a sealed envelope with postage prepaid and following ordinary business practices, said envelope was duly mailed and addressed to:

Miguel Juarez Zavala (Defendant)
2316 Cooley Avenue
East Palt Alto, CA 94303

I declare under the penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct, and that this declaration was executed on May 13, 2008, at South Pasadena, California.

Dated: May 13, 2008

/s/ Terry Houston

TERRY HOUSTON

**PLAINTIFF'S EX PARTE APPLICATION FOR AN ORDER CONTINUING
CASE MANAGEMENT CONFERENCE; AND ORDER (Proposed)**
CASE NO. 3:07-cv-5925-MMC

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